IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 14TH AUGUST 2007 / 23RD SRAVANA 1929

WP(C).No. 23812 of 2007(I)

PETITIONER:

M.P.GANGADHARAN, AGED 55 YEARS,
SON OF KRISHNA KURUP, EDASSERI, PARAMBA,
POKKUNNU P.O., CALICUT-13, PROPRIETOR OF
M.P.TRADERS, 7/135, EDAKKARA P.O.CHELANNUR,
KOZHIKODE.

BY ADV. SRI.G.GOPALAKRISHNAN NAIR (EDAPPALLY)

RESPONDENTS:

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1. THE CITY RATIONING OFFICER,
CALICUT NORTH.

2. THE DISTRICT SUPPLY OFFICER,
KOZHIKODE.

3. THE DISTRICT COLLECTOR,
KOZHIKODE.

BY GOVT.PLEADER SRI.I.V.PRAMOD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Thottathil B. Radhakrishnan, J.

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W.P.(C)No.23812 of 2007

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Dated this the 14th day of August, 2007.

JUDGMENT

The petitioner contends that he is a wholesale dealer in wheat and therefore, the proposed confiscation on the basis of seizure of wheat from his godown is contrary to the provisions of the Essential Commodities Act, 1952, hereinafter refereed to as the 'Act'. He also seeks an order that the goods seized under the mahazar may be ordered to be released to him.

2. Learned Government Pleader, relies on the judgment of the Division Bench of this Court in W.A.No.1177/07, urged that in terms of Section 6 A (2) of the Act, this Court may not be justified in issuing an order for release of the seized goods even on furnishing bank guarantee for the value of the goods. However, it appears that going by Ext.P1, the petitioner contends that he is a wholesale dealer and if that be so, the total quantity of wheat seized from his as per the mahazar is below the total quantity that may be retained by him in his custody and

therefore, the proceedings itself may be without any legal foundation.

3. Under the aforesaid circumstances, this writ petition is disposed of directing that on production of a copy of this judgment, the District Collector shall ascertain whether the petitioner is a wholesale dealer and if so, whether he is entitled to release of the goods in his favour. Until such decision is taken, the goods seized form the petitioner shall be maintained in custody of the State, as of now.

Issue copy today itself.

Thottathil B.Radhakrishnan,
Judge.

kkb.